



Montana Legislative History

Checklist of Bill History

Chapter: 221 Session L: 2009

Bill Number: SH 447

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Judiciary

Hearing Date(s):

[March 18, 2009](#)

[March 20, 2009](#) (Exec. Action)

Conference Committee

Hearing Date(s):

Conference Committee Report:

Senate

Committee: Judiciary

Hearing Date(s):

[Feb. 20, 2009](#)

Compiler Notes

Compiled by: sg

Date: 10/18/24

Notes: No minutes for Senate Executive Action, no summary minutes for House Judiciary, just the audio files.

Bill Explorer - SB 447: Clarify preservation of DNA in felony cases

Summary

Sponsoredby: [Moss, Lynda](#)
(D) SD 26

Progress		
Status	Date	Passed
Introduced	02/12/09	✓
Passed (S) Committee	02/12/09	✓
Passed Senate	02/21/09	✓
Passed (H) Committee	02/25/09	✓
Passed House	03/20/09	✓
To Governor	04/01/09	✓

Draft #	LC1365
Amendment(s)	No
Chapter #	221
Current Status	Chapter Number Assigned
Co-Sponsor(s)	None
Drafter	Lane, Valencia
Requester	Moss, Lynda
Fiscal Note	Yes

Preintroduction Required	No
Category	General Bills
Subject(s)	Criminal Procedure (see also: Law Enforcement),
Transmittal Date	02/26/09
Return Date	04/02/09

Sections Affected	Effective Date	Qualifier
All Sections	10/01/2009	

Bill Explorer - SB 447: Clarify preservation of DNA in felony cases

Status

Date	Action	Committee	Yes Votes	No Votes
04/15/09	Chapter Number Assigned			
04/15/09	(S) Signed by Governor			
04/07/09	(S) Transmitted to Governor			
04/06/09	(H) Signed by Speaker			
04/03/09	(S) Signed by President			
04/02/09	(S) Returned from Enrolling			
04/02/09	(C) Printed - New Version Available			
04/01/09	(S) Sent to Enrolling			
04/01/09	(H) Returned to Senate			
04/01/09	(H) 3rd Reading Concurred		84	16
04/01/09	(H) Scheduled for 3rd Reading			
03/31/09	(C) Printed - New Version Available			
03/31/09	(C) Sponsors Engrossed			
03/31/09	(H) 2nd Reading Concurred		80	20
03/31/09	(H) Scheduled for 2nd Reading			
03/20/09	(H) Committee Report--Bill Concurred	(H) Judiciary		
03/20/09	(H) Committee Executive Action--Bill Concurred	(H) Judiciary	11	7

Date	Action	Committee	Yes Votes	No Votes
03/18/09	(H) Hearing	(H) Judiciary		
03/02/09	(H) First Reading			
03/02/09	(H) Referred to Committee	(H) Judiciary		
02/25/09	(S) Transmitted to House			
02/25/09	(S) 3rd Reading Passed		50	0
02/25/09	(S) Scheduled for 3rd Reading			
02/24/09	(S) 2nd Reading Passed		50	0
02/24/09	(S) Scheduled for 2nd Reading			
02/21/09	(S) Committee Report--Bill Passed	(S) Judiciary		
02/21/09	(S) Committee Executive Action--Bill Passed	(S) Judiciary	12	0
02/20/09	(S) Hearing	(S) Judiciary		
02/17/09	(S) Fiscal Note Printed			
02/16/09	(S) Fiscal Note Signed			
02/16/09	(S) Fiscal Note Received			
02/12/09	(C) Introduced Bill Text Available Electronically			
02/12/09	(S) First Reading			
02/12/09	(S) Fiscal Note Requested			
02/12/09	(S) Referred to Committee	(S) Judiciary		
02/12/09	(S) Introduced			
02/10/09	(C) Draft Delivered to Requester			
02/07/09	(C) Draft Ready for Delivery			

Date	Action	Committee	Yes Votes	No Votes
02/06/09	(C) Draft in Assembly/Executive Director Review			
02/06/09	(C) Draft in Final Drafter Review			
02/06/09	(C) Draft in Input/Proofing			
02/06/09	(C) Draft to Drafter - Edit Review			
02/06/09	(C) Draft in Edit			
02/05/09	(C) Draft Back for Redo			
02/05/09	(C) Draft in Assembly/Executive Director Review			
02/05/09	(C) Draft in Final Drafter Review			
02/04/09	(C) Bill Draft Text Available Electronically			
02/04/09	(C) Draft in Input/Proofing			
02/04/09	(C) Draft to Drafter - Edit Review			
02/04/09	(C) Draft in Edit			
02/02/09	(C) Draft in Legal Review			
01/31/09	(C) Draft to Requester for Review			
01/15/09	(C) Draft Taken Off Hold			
01/06/09	(C) Draft On Hold			
12/04/08	(C) Draft Request Received			

Showing 1 to 55 of 55 entries

Bill Explorer - SB 447: Clarify preservation of DNA in felony cases

Fiscal

Date	Status
02/17/09	(S) Fiscal Note Printed
02/16/09	(S) Fiscal Note Signed
02/16/09	(S) Fiscal Note Received
02/12/09	(S) Fiscal Note Requested

Fiscal Documents

[SB0447.pdf](#)

Fiscal Rebuttals

No matching results found

Amendments

Amendment	Condensed Version
No Amendments found	

Documents And Links

Previous Versions

[SB0447_x.pdf](#)

[SB0447_2.pdf](#)

[SB0447_1.pdf](#)

Other

None

(3) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator.

(4) (a) When applying for an absentee ballot under this section, an elector may also request to be mailed an absentee ballot, as soon as the ballot becomes available, for each subsequent election in which the elector is eligible to vote or only for each subsequent federal election in which the elector is eligible to vote for as long as the elector remains qualified to vote and resides at the address provided in the initial application.

(b) The election administrator shall mail an address confirmation form in January ~~and July~~ of each year to each elector who has requested an absentee ballot for subsequent elections. The address confirmation form ~~mailed in January~~ is for elections to be held between February 1 following the mailing through ~~July of the same year, and the address confirmation form mailed in July~~ is for elections to be held between August 1 following the mailing through January of the succeeding year. The elector shall sign the form, indicate the address to which the absentee ballot should be sent, and return the form to the election administrator. If the form is not completed and returned, the election administrator shall remove the elector from the register of electors who have requested an absentee ballot for each subsequent election.

(c) An elector who has been removed from the register may subsequently request to be mailed an absentee ballot for each subsequent election.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2009

CHAPTER NO. 220

[SB 405]

AN ACT EXTENDING GRANDPARENT-GRANDCHILD CONTACT RIGHTS TO GREAT-GRANDPARENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Grandparents include great-grandparents. For purposes of this part, the term “grandparent” includes a great-grandparent.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 40, chapter 9, part 1, and the provisions of Title 40, chapter 9, part 1, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2009

CHAPTER NO. 221

[SB 447]

AN ACT CLARIFYING PRACTICES RELATED TO THE PRESERVATION AND DISPOSAL OF BIOLOGICAL EVIDENCE IN FELONY CRIMINAL CASES; AND AMENDING SECTION 46-21-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-21-111, MCA, is amended to read:

"46-21-111. Preservation and disposal of scientific identification biological evidence obtained in criminal proceeding. (1) ~~(a) The state A~~ *law enforcement agency shall preserve scientific identification biological evidence that the state agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained. The state agency shall preserve the evidence for a minimum of 3 years after the conviction in the case becomes final or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final.*

~~(2)(b) The state~~ *An agency may propose to dispose of scientific identification biological evidence before the expiration of the time period described in subsection (1)(a) if the state agency notifies the convicted person, and any the attorney of record for the convicted person, and the Montana chief public defender. The notification must include a description of the scientific identification biological evidence, a statement that the state agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed. If an objection to the disposition of the evidence is not filed within that the 120-day period, the state agency may dispose of the evidence. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system.*

~~(3)(c) If a party objects to the disposition of the scientific identification biological evidence, the state agency has the burden of proving by a preponderance of the evidence that the evidence should be disposed of.~~

(2) Upon completion of laboratory analysis, the laboratory operated by the forensic sciences division of the department of justice shall permanently preserve under laboratory control any remaining biological evidence collected from items submitted to it.

(3) For purposes of this section, the following definitions apply:

(a) "Biological evidence" means any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material, including the contents of a sexual assault examination kit, that is collected as part of a criminal investigation or that may reasonably be used to incriminate or exculpate any person of an offense.

(b) "DNA" means deoxyribonucleic acid."

Approved April 15, 2009

CHAPTER NO. 222

[HB 71]

AN ACT REPEALING THE SUNSET PROVISION FOR THE UTILIZATION FEE FOR HOSPITAL INPATIENT BED DAYS; REPEALING SECTION 20, CHAPTER 390, LAWS OF 2003, SECTIONS 4 AND 7, CHAPTER 606, LAWS OF 2005, AND SECTIONS 4, 5, 6, AND 8, CHAPTER 517, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

SENATE BILL NO. 447
INTRODUCED BY L. MOSS

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PRACTICES RELATED TO THE PRESERVATION AND DISPOSAL OF BIOLOGICAL EVIDENCE IN FELONY CRIMINAL CASES; AND AMENDING SECTION 46-21-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-21-111, MCA, is amended to read:

"46-21-111. Preservation and disposal of ~~scientific identification~~ biological evidence obtained in criminal proceeding. (1) ~~(a) The state~~ A law enforcement agency shall preserve ~~scientific identification~~ biological evidence that the ~~state~~ agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained. The ~~state~~ agency shall preserve the evidence for a minimum of 3 years after the conviction in the case becomes final or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final.

~~(2)(b) The state~~ An agency may propose to dispose of ~~scientific identification~~ biological evidence before the expiration of the time period described in subsection (1)~~(a)~~ if the ~~state~~ agency notifies the convicted person, ~~and any the attorney of record for the convicted person, and the Montana chief public defender.~~ The notification must include a description of the ~~scientific identification~~ biological evidence, a statement that the ~~state~~ agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed. If an objection to the disposition of the evidence is not filed within ~~that the~~ the 120-day period, the ~~state~~ agency may dispose of the evidence. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system.

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(b) "DNA" means deoxyribonucleic acid."

- END -

SENATE BILL NO. 447

INTRODUCED BY MOSS, SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PRACTICES RELATED TO THE PRESERVATION AND DISPOSAL OF BIOLOGICAL EVIDENCE IN FELONY CRIMINAL CASES; AND AMENDING SECTION 46-21-111, MCA."

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~~(2)(b) The state~~ An agency may propose to dispose of ~~scientific identification~~ biological evidence before the expiration of the time period described in subsection (1)~~(a)~~ if the ~~state~~ agency notifies the convicted person, ~~and any the attorney of record for the convicted person, and the Montana chief public defender.~~ The notification must include a description of the ~~scientific identification~~ biological evidence, a statement that the ~~state~~ agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed. If an objection to the disposition of the evidence is not filed within ~~that the~~ the 120-day period, the ~~state~~ agency may dispose of the evidence. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system.

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(b) "DNA" means deoxyribonucleic acid."

- END -



AN ACT CLARIFYING PRACTICES RELATED TO THE PRESERVATION AND DISPOSAL OF BIOLOGICAL EVIDENCE IN FELONY CRIMINAL CASES; AND AMENDING SECTION 46-21-111, MCA.

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(b) "DNA" means deoxyribonucleic acid."

- END -

I hereby certify that the within bill,
SB 0447, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 447

INTRODUCED BY MOSS, SHOCKLEY

AN ACT CLARIFYING PRACTICES RELATED TO THE PRESERVATION AND DISPOSAL OF BIOLOGICAL EVIDENCE IN FELONY CRIMINAL CASES; AND AMENDING SECTION 46-21-111, MCA.



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0447	Title:	Clarify preservation of DNA in felony cases
Primary Sponsor:	Moss, Lynda	Status:	As Introduced

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact:

This bill has no fiscal impact to the State of Montana.

Effect on County or Other Local Revenues or Expenditures:

The requirements of this bill may have a fiscal impact to local jurisdictions but a cost is undeterminable at this time.

Sponsor's Initials

Date

Budget Director's Initials

Date

MINUTES

MONTANA SENATE 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Gary L. Perry, on February 20, 2009 at
8:00 A.M., in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Gary L. Perry, Chairman (R)
Sen. Jim Shockley, Vice Chairman (R)
Sen. Aubyn Curtiss (R)
Sen. John Esp (R)
Sen. Greg Hinkle (R)
Sen. Carol C. Juneau (D)
Sen. Cliff Larsen (D)
Sen. Jesse Laslovich (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Terry Murphy (R)

Members Excused: None

Members Absent: Sen. Larry Jent (D)

Staff Present: Valencia Lane, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 321, SB 447, SB 468, SB 476,
SJ 27, SJ 29, 2/13/2009

Executive Action: None

HEARING ON SB 321

Opening Statement by Sponsor:

00:02:07 Sen. Carol Williams (D), SD 46, opened the hearing on SB 321, Create penalty for voter suppression.

Proponents' Testimony:

00:04:53 Vicki Zeier, Missoula County Clerk and Recorder, Missoula
00:08:53 Eric Stern, Senior Legal Council, Office of the Governor, State of Montana
00:11:40 Joy Bruck, Volunteer Advocate, AARP Montana
00:12:45 Kate Cholewa, Montana Common Cause
00:13:13 Ali Bovingdon, Assistant Attorney General, Department of Justice (DOJ)
00:13:50 Jorge Quintana, Office of Secretary of State, State of Montana

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

00:14:48 Sen. McGee
00:15:20 Ms. Zeier
00:18:04 Sen. McGee
00:18:16 Mr. Quintana
00:18:36 Sen. McGee
00:19:13 Mr. Stearn
00:21:30 Sen. McGee
00:22:16 Ms. Zeir
00:23:06 Sen. Larsen
00:23:29 Ms. Zeier
00:25:02 Sen. Esp
00:25:16 Ms. Zeier
00:27:00 Sen. Williams
00:29:19 Sen. Curtiss
00:29:47 Mr. Quintana

Closing by Sponsor:

00:30:11 Sen. Williams

Distributed to the Committee Members for SB 321:

EXHIBIT(jus40a01)

HEARING ON SB 468

Opening Statement by Sponsor:

00:31:53 Sen. Gregory Barkus (R), SD 4, opened the hearing on SB 468, Admissibility in evidence of seat belt use.

Proponents' Testimony:

00:36:06 John Alke, Montana Defense Trial Lawyers Association
00:41:59 Barry "Spook" Stang, Executive Vice President, Montana Motor Carriers Association
00:43:27 Jason Todhunter, Montana Logging Association
00:43:47 Jon Bennion, Montana Chamber of Commerce
00:44:49 Steve Wade, Montana Contractors Association
00:45:19 Jane Hamman, AAA Mountain West, Montana Traffic Association
00:45:53 Harold Blattie, Executive Director, Montana Association of Counties (MACo)
00:46:58 Jacqueline Lenmark, American Insurance Association, (AIA); also for Bruce Spencer, Property Casualty Insurers Association of America (PCIAA)
00:49:14 Greg VanHorssen, State Farm Insurance Company
00:49:34 Dwight Easton, Farmers Insurance Group

Opponents' Testimony:

00:50:03 Al Smith, Montana Trial Lawyers Association (MTLA)
01:01:24 Bob Gilbert, self
01:05:29 William "Willie" Duffield, Duffield Express

Informational Testimony:

None

Questions from Committee Members and Responses:

01:10:10 Sen. McGee
01:11:26 Mr. Alke
01:18:56 Sen. Laslovich
01:20:00 Mr. Bennion

01:22:27 Sen. Laslovich
01:22:38 Sen. Barkus
01:27:21 Sen. Laslovich
01:27:42 Mr. Smith
01:30:41 Sen. Perry
01:32:10 Mr. Alke
01:35:41 Sen. Perry
01:36:03 Ms. Lenmark

Closing by Sponsor:

01:40:58 Sen. Barkus

01:43:02 break

HEARING ON SB 476

Opening Statement by Sponsor:

01:56:17 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 476, Increase monetary amount threshold for felony.

Proponents' Testimony:

01:58:05 Pam Bucy, Montana Association of Chiefs of Police (MACOP)
01:58:32 Kathy McGowan, Montana County Attorneys Association (MCAA)

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

01:59:15 Sen. Shockley

HEARING ON SB 447

Opening Statement by Sponsor:

02:00:12 Sen. Lynda Moss (D), SD 26, opened the hearing on SB 447, Clarify preservation of DNA in felony cases.

Proponents' Testimony:

02:01:17 Jessie McQuillan, Executive Director, Montana Innocence Project

EXHIBIT(jus40a02)

02:06:07 Julie Johnson, self; Attorney

02:08:39 Kelsen Young, Executive Director, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

Opponents' Testimony:

None

Informational Testimony:

02:09:34 Pam Bucy, Montana Police Protective Association (MPPA), MACOP

02:10:26 Ali Bovingdon, Assistant Attorney General (AAG), Department of Justice (DOJ)

Questions from Committee Members and Responses:

02:11:21 Sen. McGee

02:11:56 Ms. Bucy

02:12:25 Sen. McGee

02:12:52 Sen. Moss

02:14:24 Sen. McGee

02:14:28 Ms. McQuillan

02:16:18 Sen. Juneau

02:17:11 Ms. McQuillan

02:17:59 Sen. Juneau

02:18:08 Ms. Bovingdon

02:18:54 Sen. Esp

02:19:28 Ms. Bovingdon

02:20:55 Sen. Esp

02:21:05 Ms. Bucy

02:21:54 Sen. Shockley

Closing by Sponsor:

02:22:21 Sen. Moss

HEARING ON SJ 29

Opening Statement by Sponsor:

02:22:50 Sen. Lynda Moss (D), SD 26, opened the hearing on SJ 29, Study retention of DNA evidence by state and local law enforcement agencies.

Proponents' Testimony:

02:25:16 Jessie McQuillan, Executive Director, Montana Innocence Project

EXHIBIT(jus40a03)

02:29:23 Pam Bucy, MCAOP, MPPA

02:31:08 Julie Johnson, self; Attorney

02:31:46 Harold Blattie, Executive Director, MACo

02:32:26 Ali Bovington, AAG-DOJ

02:33:55 Kelsen Young, Executive Director, MCADSV

02:36:14 Harris Himes, self

02:37:11 Dallas Erickson, Montana Citizens for Decency Through Law

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

02:38:15 Sen. Shockley

02:38:30 Sen. Moss

Closing by Sponsor:

02:38:40 Sen. Moss

HEARING ON SJ 27

Opening Statement by Sponsor:

02:39:49 Sen. Joe Balyeat (R), SD 34, opened the hearing on SJ 27, Oppose federal freedom of choice act.

Proponents' Testimony:

02:45:30 Gilda Clancy, Montana State Eagle Forum
02:45:53 Jeff Laszloffy, President, Montana Family Foundation
02:46:20 Moe Wosepka, Montana Catholic Conference
EXHIBIT(jus40a04)
02:47:43 Roland Horst, Montana ProLife Coalition
02:49:44 Harris Himes, Pastor, Big Sky Christian Center
02:50:45 Richard Bennett, self, Bozeman
02:51:02 Dallas Erickson, Montana Citizens for Decency Through Law

Opponents' Testimony:

02:51:32 Niki Zupanic, ACLU
02:53:50 Lindsay Love, Planned Parenthood of Montana
02:55:46 Angie Wagenhals, NARAL Pro-Choice Montana
EXHIBIT(jus40a05)
02:57:33 Jan Strout, Bozeman, National Organization of Women
02:58:35 Kelsen Young, Executive Director, MCADSV

Informational Testimony:

None

Questions from Committee Members and Responses:

02:59:05 Sen. Hinkle
02:59:24 Ms. Zupanic
03:00:45 Sen. Moss
03:01:12 Sen. Balyeat
03:03:53 Sen. Moss
03:04:17 Ms. Love
03:05:27 Sen. McGee
03:05:36 Ms. Love
03:06:53 Sen. McGee
03:07:25 Ms. Zupanic
03:09:00 Sen. McGee
03:09:22 Ms. Love
03:10:18 Sen. Juneau
03:10:22 Sen. McGee
03:10:31 Sen. Perry

03:10:41 Sen. McGee
03:11:02 Ms. Love
03:11:42 Sen. Perry
03:12:17 Sen. Juneau
03:12:29 Sen. Perry
03:12:33 Sen. Juneau
03:12:50 Sen. McGee
03:13:39 Ms. Love
03:16:25 Sen. McGee
03:17:17 Ms. Zupanic
03:23:45 Sen. McGee
03:24:08 Ms. Love
03:25:47 Sen. Laslovich
03:26:44 Sen. Balyeat
03:31:31 Sen. Hinkle
03:32:52 Sen. Balyeat
03:33:58 Sen. Perry
03:34:08 Ms. Love

Closing by Sponsor:

03:36:17 Sen. Balyeat

**Distributed to the Committee Members regarding SB 406, heard
2/19/08:**

[EXHIBIT](#)(jus40a06)

**Distributed to the Committee Members regarding SB 379, SB 380,
SB 381, SB 382 heard 2/1/09:**

[EXHIBIT](#)(jus40a07)

**Distributed to the Committee Members regarding SJ 27, heard
2/20/09:**

[EXHIBIT](#)(jus40a08)

ADJOURNMENT

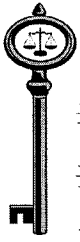
Adjournment: 11:45 A.M.

Pam Schindler, Secretary

ps

Additional Documents:

EXHIBIT ([jus40aad.pdf](#))



MONTANA INNOCENCE PROJECT

P.O. BOX 7607, MISSOULA, MT 59807 • (406) 544-6698

STATE JUDICIARY
CASE NO. 2
DATE 2/20/09
FILE NO. SB447

Written Testimony of Jessie McQuillan,
Executive Director of Montana Innocence Project

Re: SB 447, Clarifying Preservation of Biological Evidence
Before the Montana Senate Judiciary Committee, Feb. 20, 2009

Summary of Testimony

- Modern DNA technology has drastically increased the power of preserved evidence. However, tapping the potential of DNA evidence requires the proper collection, retention, storage & organization of criminal evidence.
- Properly preserved evidence helps to:
 - 1) Exonerate innocent people who were mistakenly convicted of crimes they didn't commit, and confirm the guilt of those who falsely claim to be innocent. Since its introduction in the late '80s, DNA testing has proven the innocence of 232 people—including three in Montana. In 100 of the 232 DNA exonerations—43 percent of cases—DNA also helped to identify the real perpetrator.
 - 2) Solve old "cold" cases where gathered evidence didn't result in an arrest or conviction but DNA testing of the same evidence years later can help identify the perpetrator & provide closure for the victim.
- Current Montana law only requires that DNA evidence be retained for 3 years following a final conviction—not long enough to ensure the evidence is available for testing when needed.
- Fortunately, the Montana State Crime Lab has adopted its own policy to permanently preserve samples of DNA evidence that it receives from law enforcement agencies. Thanks to this policy, the Crime Lab has retained valuable evidence that could otherwise have been legally destroyed.
- Codifying the crime lab's current policy will ensure that evidence is retained in coming years, regardless of changes in leadership or funding priorities.
- Sen. Moss & Montana Innocence Project worked with the Montana Dept. of Justice & State Crime Lab to craft language for SB 447 that will codify the lab's current practices, but not increase its burden or costs.

BUSINESS REPORT

**MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION**

SENATE JUDICIARY COMMITTEE

Date: Friday, February 20, 2009
Place: Capitol

Time: 8:00 am
Room: 303

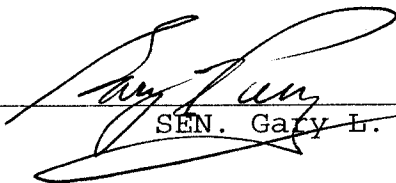
BILLS and RESOLUTIONS HEARD:

SB 321, SB 447, SB 468, SB 476, SJ 27, SJ 29

EXECUTIVE ACTION TAKEN:

None

COMMENTS:



SEN. Gary L. Perry, Chairman

MONTANA STATE SENATE
Roll Call
JUDICIARY COMMITTEE

DATE: 2/20/09

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR GARY PERRY, CHAIRMAN	/	
SENATOR JIM SHOCKLEY, VICE CHAIRMAN	/	
SENATOR AUBYN CURTISS	/	
SENATOR JOHN ESP	/	
SENATOR GREG HINKLE	/	
SENATOR LARRY JENT		/
SENATOR CAROL JUNEAU	/	
SENATOR CLIFF LARSEN	/	
SENATOR JESSE LASLOVICH	/	
SENATOR DANIEL MCGEE	/	
SENATOR LYNDIA MOSS	/	
SENATOR TERRY MURPHY	/	

MONTANA STATE SENATE
Visitors Register

Judiciary Committee

Date 2/20/09

Bill No. SJR-27 Sponsor(s) Senator Balyeat

PLEASE PRINT

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Name and Address	Representing	Support	Oppose	Inf.
Roland Horst Bigfork MT	Montana Pro-Life Coalition	X		
HARIZIS HIMES		X		
GILDA CLANCY	MT EAGLE FORUM	X		
Jeff Laszloffy	MT Family Foundation	X		
Niki Zupanic	ACLU		✓	
Dallas Erickson	MCDC	X		
RICHARD BENNETT	SELF - BOZEMAN	X		
Pam Bucy	MPPA/ MICO P	X		
Ali Boringdon	AG's Office	X		
Moe Wosepka	MT Catholic Conf	X		
JAN STRONG	NOW		X	
Kelsie Young	MEADS		X	
Bill Jones	Montana Catholic Conference	X		
Jerry O'Neil	ME	X		
Jo Stevenson	MT Women's ^{SELF} Lobby		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register

Judiciary Committee

Date 2/20/09

Bill No. SB-476 Sponsor(s) Senator Shockley

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Name and Address	Representing	Support	Oppose	Inf.
Kathy McFuan	MCAA	☒	☐	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register

Judiciary Committee

Date 2/20/09

Bill No. SB-447 Sponsor(s) Senator Moss

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Name and Address	Representing	Support	Oppose	Inf.
Julie Johnson Helena	Self	✓		
Jessie McQuillan ^{PO 7607} MSIA	MT Innocence Project	✓		
Kelsie Young	MCADSV	X		
Pam Buecy	MACOP/MPPA			X
Ali Baringdor	AG's office	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE

Visitors Register

Judiciary Committee

Date 2/20/09

Bill No. SJR-29 Sponsor(s) Senator Moss

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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE

Visitors Register

Judiciary Committee

Date 2/20/09

Bill No. SB-321 Sponsor(s) Senator C. Williams

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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register

Judiciary Committee

Date 2/20/09

Bill No. SB-468 Sponsor(s) Senator Barkus

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Name and Address	Representing	Support	Oppose	Inf.
Al Smith	MTLH		X	
Bob Gilbert	SELF		X	
Willie Duffield	Duffield Express (SELF)		X	
Steve Yeakel	MT Council for Mental ^{Child} Health	✓		
Dwight Easton	Farmers Ins Grp	✓		
Jacqueline Benmark	Am. Ins. Assn	✓		
Brake Spencer Jr	PCIAA	✓		
Greg Tar Sornes Jr	State Farm	✓		
Jane Hammon	AAA / MTEA	✓		
Greg				
Tom Bennion	MT Chamber	✓		
Steve Wade	MT Contractors	✓		
John Alk	MOIL	✓		
Jason Todhunter	MCA	X		
Spack Stang	MMCA	X		
Alan Hulse	MMIA	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Ron Stoker, on March 20, 2009 at 8:07
A.M., in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Ron Stoker, Chairman (R)
Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. David Howard (R)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: None

Members Absent: Rep. Edith (Edie) McClafferty (D)

Staff Present: Jennifer Eck, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 327, 3/17/2009; SB 476,
3/17/2009; SB 497, 3/17/2009

Executive Action: SB 382, SB 434, SB 441, SB 447,
SJ 29

HEARING ON SB 327

Opening Statement by Sponsor:

00:00:38 Sen. Aubyn Curtiss (R), SD 1, opened the hearing on
SB 327, Protection for mothers to be.

Proponents' Testimony:

00:01:36 Jeff Laszloffy, Montana Family Foundation
00:03:45 Dallas Erickson, Montana Citizens for Decency Through
Law

EXHIBIT(juh62a01)

00:07:49 Doug Nulle
00:10:51 Harris Himes, pastor, Big Sky Christian Center
00:12:35 Moe Wosepka, Montana Catholic Conference
00:13:21 B.G. Stumberg, Canyon Ferry Road Baptist Church

Opponents' Testimony:

00:13:57 Niki Zupanic, American Civil Liberties Union of Montana
00:18:59 Stacy Anderson, Planned Parenthood of Montana
00:21:44 Angie Wagenhals, NAHRAL Montana
00:22:59 Kelsen Young, Montana Coalition Against Domestic and
Sexual Violence

Informational Testimony: None

Questions from Committee Members and Responses:

00:25:05 Rep. Warburton
00:25:13 Mr. Nulle
00:25:15 Rep. Warburton
00:25:36 Mr. Nulle
00:25:49 Rep. Warburton
00:25:55 Mr. Nulle
00:26:25 Rep. Menahan
00:27:15 Ms. Zupanic
00:27:50 Rep. Menahan
00:28:36 Ms. Zupanic
00:28:59 Rep. Menahan
00:29:52 Ms. Zupanic
00:29:54 Rep. Menahan
00:30:03 Rep. More
00:30:10 Ms. Zupanic
00:30:12 Rep. More
00:30:24 Ms. Zupanic
00:30:43 Rep. More
00:31:01 Ms. Zupanic

00:31:18 Rep. More
00:31:30 Ms. Zupanic
00:32:37 Rep. More
00:32:53 Ms. Young
00:32:53 Rep. More
00:33:00 Ms. Young
00:33:04 Rep. More
00:33:24 Ms. Young
00:34:56 Rep. More
00:35:10 Ms. Young
00:35:15 Rep. More
00:35:30 Ms. Young
00:35:32 Rep. More
00:35:41 Ms. Young
00:35:44 Rep. More
00:35:50 Ms. Young
00:36:02 Rep. Ebinger
00:36:06 Chairman Stoker
00:36:24 Rep. Warburton
00:36:41 Mr. Erickson
00:36:43 Rep. Warburton
00:37:09 Mr. Erickson
00:37:28 Mr. Himes
00:37:38 Rep. Warburton
00:37:57 Mr. Himes
00:38:47 Rep. Warburton
00:38:59 Mr. Himes
00:39:08 Rep. Warburton
00:39:12 Rep. Ebinger
00:39:18 Sen. Curtiss
00:39:20 Rep. Ebinger
00:39:52 Sen. Curtiss
00:40:22 Rep. Ebinger
00:40:29 Sen. Curtiss
00:40:58 Rep. Ebinger
00:41:13 Rep. Peterson
00:41:27 Ms. Zupanic
00:41:28 Rep. Peterson
00:41:42 Ms. Zupanic
00:42:04 Rep. Peterson
00:42:14 Chairman Stoker
00:42:24 Ms. Zupanic
00:42:25 Chairman Stoker
00:43:05 Ms. Zupanic
00:43:32 Chairman Stoker

Closing by Sponsor:

00:43:41 Sen. Curtiss

00:44:39 Chairman Stoker
00:45:00 Sen. Curtiss
00:45:45 Chairman Stoker

00:47:00 Recess
01:00:38 Reconvene

HEARING ON SB 476

Opening Statement by Sponsor:

01:01:00 Sen. Jim Shockley (R), SD 45, opened the hearing on
SB 476, Increase monetary amount threshold for felony.

01:02:15 Chairman Stoker

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:02:51 Chairman Stoker
01:02:54 Sen. Shockley
01:02:58 Chairman Stoker
01:03:15 Sen. Shockley
01:03:19 Chairman Stoker
01:03:22 Sen. Shockley
01:03:31 Rep. Menahan
01:04:01 Sen. Shockley
01:04:32 Rep. Menahan
01:04:58 Sen. Shockley
01:05:20 Rep. Warburton
01:05:35 Sen. Shockley
01:05:46 Rep. Warburton
01:05:52 Rep. Wagner
01:05:59 Sen. Shockley
01:06:01 Rep. Wagner
01:06:08 Sen. Shockley
01:06:12 Rep. Wagner
01:06:41 Sen. Shockley
01:07:00 Rep. Howard
01:07:07 Sen. Shockley
01:08:19 Rep. Howard
01:08:20 Sen. Shockley
01:08:24 Chairman Stoker
01:08:26 Rep. Peterson

01:08:54 Sen. Shockley
01:09:15 Rep. Peterson
01:09:22 Sen. Shockley
01:09:23 Rep. Peterson

Closing by Sponsor:

01:09:32 Sen. Shockley
01:09:36 Chairman Stoker

HEARING ON SB 497

Opening Statement by Sponsor:

01:09:47 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 497, Creating the crime of obstructing a protest at a health care facility.

01:10:05 Chairman Stoker
01:10:11 Sen. Shockley
01:12:13 Chairman Stoker

Proponents' Testimony:

01:12:20 Jeff Laszloffy, Montana Family Foundation
01:13:32 Doug Nulle
01:14:41 Harris Himes, pastor, Big Sky Christian Center
01:16:10 Dallas Erickson, Montana Citizens for Decency Through Law

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:17:07 Rep. Regier
01:17:16 Sen. Shockley
01:17:18 Rep. Regier
01:17:46 Sen. Shockley
01:18:22 Chairman Stoker
01:18:50 Sen. Shockley
01:19:12 Chairman Stoker
01:19:14 Rep. Menahan
01:19:21 Chairman Stoker
01:19:26 Rep. Menahan
01:20:17 Sen. Shockley
01:20:33 Chairman Stoker

Closing by Sponsor:

01:20:57 Sen. Shockley

01:21:49 Chairman Stoker

EXECUTIVE ACTION ON SB 382

01:22:18 **Motion:** Rep. Peterson moved that **SB 382 BE CONCURRED IN.**

Discussion:

01:22:22 Chairman Stoker

01:22:58 Rep. Kottel

01:24:39 Chairman Stoker

01:24:59 Rep. Kottel

01:25:27 Chairman Stoker

01:25:45 Rep. Kottel

01:25:58 Chairman Stoker

01:26:09 Rep. Peterson

01:27:04 Chairman Stoker

01:27:30 Rep. Bennett called the question.

01:27:34 **Vote:** Motion failed 9-9 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Regier, Rep. Howard, Rep. Warburton, and Rep. Stoker voting aye. Rep. Sands and Rep. McClafferty voted by proxy.

01:28:42 Chairman Stoker

EXECUTIVE ACTION ON SB 434

01:28:58 **Motion:** Rep. Peterson moved that **SB 434 BE CONCURRED IN.**

01:29:00 Chairman Stoker

01:29:09 Mr. Niss

01:29:13 Rep. Regier

01:29:15 Chairman Stoker

01:29:20 **Motion:** Rep. Regier moved that **SB 434 BE AMENDED.**
EXHIBIT (juh62a02)

Discussion:

01:29:55 Chairman Stoker

01:29:57 Rep. Regier

01:30:26 Chairman Stoker
01:30:30 Rep. More
01:30:42 Rep. Peterson called the question.
01:30:44 Chairman Stoker
01:30:47 Rep. Blewett
01:31:01 Chairman Stoker
01:31:07 Rep. Regier
01:31:25 Rep. Blewett
01:31:28 Chairman Stoker
01:31:38 Rep. Bennett
01:31:49 Chairman Stoker
01:32:24 Mr. Niss
01:33:05 Chairman Stoker
01:34:51 Rep. Driscoll
01:34:57 Chairman Stoker
01:35:03 Rep. Driscoll
01:35:23 Rep. Howard
01:35:31 Chairman Stoker decided to postpone action on SB 434.

EXECUTIVE ACTION ON SB 441

01:36:00 **Motion:** Rep. Peterson moved that **SB 441 BE CONCURRED IN.**

Discussion:

01:36:04 Chairman Stoker
01:36:19 Rep. Peterson
01:37:26 Chairman Stoker
01:37:33 Rep. Peterson
01:37:43 Chairman Stoker
01:37:48 Rep. Kerns called the question.

01:37:52 **Vote:** Motion carried unanimously by voice vote. Rep. Sands and Rep. McClafferty voted by proxy.

01:38:23 Chairman Stoker

EXECUTIVE ACTION ON SB 434, Continued

01:39:42 **Substitute Motion:** Rep. Peterson made a substitute motion that **SB 434 BE INDEFINITELY POSTPONED.**

01:40:00 Chairman Stoker
01:40:16 Mr. Niss
01:42:43 Chairman Stoker

01:42:48 **Vote:** Motion carried unanimously by voice vote. Rep. Sands and Rep. McClafferty voted by proxy.

01:43:23 Chairman Stoker
01:43:28 Rep. Bennett
01:43:32 Chairman Stoker

EXECUTIVE ACTION ON SB 447

01:44:24 **Motion:** Rep. Peterson moved that **SB 447 BE CONCURRED IN.**

Discussion:

01:44:26 Chairman Stoker
01:44:29 Rep. Ebinger exited the meeting.
01:44:31 Rep. Menahan
01:50:02 Rep. Kottel
01:50:12 Chairman Stoker
01:50:13 Rep. Kottel
01:50:42 Rep. Menahan
01:50:58 Chairman Stoker
01:51:00 Mr. Niss
01:51:15 Rep. Howard
01:52:07 Rep. Kottel
01:53:15 Chairman Stoker
01:53:21 Rep. Warburton
01:53:56 Rep. Peterson
01:54:35 Rep. Menahan
01:55:47 Rep. Kottel
01:56:05 Rep. MacDonald
01:57:14 Chairman Stoker
01:57:16 Rep. Peterson called the question.

01:57:21 **Vote:** Motion carried 11-7 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Howard and Rep. Warburton voting no. Rep. Sands, Rep. Ebinger, and Rep. McClafferty voted by proxy.

01:58:27 Chairman Stoker
01:58:47 Rep. Driscoll
01:59:02 Chairman Stoker

EXECUTIVE ACTION ON SJ 29

01:59:41 **Motion:** Rep. Peterson moved that **SJ 29 BE CONCURRED IN.**

Discussion:

01:59:44 Chairman Stoker

02:00:17 Rep. More

02:00:32 Chairman Stoker

02:00:41 Rep. Menahan

02:03:36 Rep. Peterson

02:04:13 Chairman Stoker

02:04:21 Rep. Warburton

02:05:01 Rep. Peterson called the question.

02:05:05 **Vote:** Motion carried 11-7 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Becker, Rep. Regier, and Rep. Howard voting no. Rep. Sands, Rep. Ebinger, and Rep. McClafferty voted by proxy.

02:06:09 Chairman Stoker

02:08:49 Rep. Becker

02:08:54 Chairman Stoker

ADJOURNMENT

02:10:24 Adjournment

Jennifer Eck, Secretary

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Additional Documents:

EXHIBIT(juh62a03) Letter from Shirley Harryman opposing SB 327

EXHIBIT(juh62a04) Letter from Catherine L. Billie opposing SB 327

EXHIBIT(juh62a05) Packet: "Constitutional Challenges to State Unborn Victims (Fetal Homicide) Laws", regarding SB 327

EXHIBIT(juh62a06) Testimony on behalf of Blue Mountain Clinic in opposition to SB 497

Additional Documents:

EXHIBIT(juh62aad.pdf)